

5th February, 1948.

UNITED NATIONS WAR CRIMES COMMISSION

NETH 20

Trial of Yamamoto Soichi by a
Netherlands Temporary Court Martial
at Pontianak, 31st October, 1946

The following translation of the judgment
has been made available to the Secretariat by
Commander M. W. Mouton, Netherlands Representative
on the Commission.

PRO - JUSTITIA.

SENTENCE.

IN THE NAME OF THE QUEEN!

Pronounced in full Court-Martial
with open doors in the presence of
Dr. LIE OEN AN, Deputy Judge-
Advocate, and the accused on
Thursday 31st October 1946.

The Temporary Court-Martial at PONTIANAK
in the case of the Deputy Judge-Advocate
ratione officii against:
YAMAMOTO SOICHI
aged 40, naval lieutenant, detained since
23rd January 1946 in the military prison
at PONTIANAK.

The Secretary:
s/ J.A. Laners.

The President:
s/ C. van Essel.

In view of the decision by the Judge-Advocate of the Temporary Court-martial
at PONTIANAK, dated 9th October 1946, to remit the case to the Temporary Court-
martial.

In view of the writ and summons dated 11th October 1946 whereby the decision
and the charge following on it were served on the accused and the latter summoned
to appear at the sitting of the Temporary Court-martial on Monday, 21st October
1946, at 8 a.m.

The accused having been interrogated and the documents of the case seen and,
in so far as use was made of them, shown and presented to the accused.

In view of the demand in writing presented by the Judge-Advocate and passed
to the Court-martial that the Court-martial declare the accused guilty of:

The war crime of wholesale murder and provocation to
wholesale murder through misuse of authority.

and on that account he be condemned to the DEATH penalty.

Considering that the accused was supported at his trial by counsel chosen
by him with permission of the President of the Court-martial, the said counsel
being Commander MITSUI USAO, Japanese navy.

In view of that which was put forward in his defence by the accused and by
counsel on his behalf.

Considering that the

Considering that the charge laid to the account of the accused is: that he:

at HANBOR and SOENGEI BOERIAN, anyhow in the western part of Borneo and anyhow in the Netherlands East Indies, on dates not now to be determined with exactitude but between approximately December 1943 and March 1945, therefore in time of war, as the subject of an enemy power, to wit Japan, committed war crimes and caused them to be committed, anyhow intentionally provoked these by misuse of authority by, contrary to the laws and usages of war, repeatedly as commander of the execution squad giving orders to the Japanese under his command to put to death by the sword large groups of civilians, to a total of one thousand or more, among them being:

The Tjhang Ngoean
The Hay Sia
Lim Tauw San
Kwee Kio Kie
Kwee Liang Tiap
Ng Ngiaap Kang
Kjo Ba Tek
Mrs. Roebini
Mrs. Panangian
Amat Haidin
Nasroen
The Demang of Singkawang
The Autonomous Ruler of Ketapang
Mas Ngabei Isdianto
Calvinus Simandjoentak
Manual Pattipeiluhu
Soedjet Wanda'atmadja
R. Soekardjo
R. Djali
Soedarmati
Noto Soedjono
Mrs. Soedjono
Ismael Latif
Achmed Saleh
Mohamed Yatim and wife
Nasroeddin
K.M. Tanboenan
E.L. Kawengian
Badroes Rifai
Elias

which orders were obeyed and whereby the execution took place by severing the victim's head from his body with a sword, in the which executions the accused himself took an active part by intentionally and without receiving orders to effect putting certain persons to death in the above manner with his own hands, although he knew that all these persons, at anyrate almost all, among them Mary Tenu, Elaje Luena, the misses Jut, Ledebor and Vijsma were not condemned to death by sentence of court, indeed were never taken before a judge at all but merely interrogated by an authority such as the TOKETAI, and several were only induced to confess that they were guilty of plotting against the Japanese after prolonged tortures such as the application of electric currents, trial by water and so on, which acts constitute a violation of the laws and usages of war.

Considering that at the trial the accused has acknowledged being guilty of the charge brought against him as amplified at the trial, but declared that he had acted in this incriminating way in the interest of his country because he judged that interest to be seriously endangered by reason of two plots directed against the Japanese occupation in West Borneo.

Considering that the accused has not succeeded in convincing the Court-martial that these plots really did exist;

that on being questioned he repeatedly declared that there were "sufficient proofs", but during his interrogation at the trial was unable to name any acts from which the existence of plots could in any way be deduced;

that the seizure of 40 pistols from the population and the possible finding of illegal wireless (receiver) sets does not in itself constitute evidence of the existence of a plot, while the accused's statement that the Japanese transmitter at PONTIANAK was sometimes used to send signals to the Allies appears so absurd to the Court-martial that it does not wish to go further into the matter;

that TANIGUCHI NOBURO, MATSURA NOICHI and HAYASHI SHUICHI, the two first of whom were members of the Japanese Intelligence Service (JOHCHAN) and the latter the head, declared in their statements, dated respectively 27th March and 14th May 1946, which were read out in front of and shown to accused at the trial:

TANIGUCHI NOBURO:

that during his tours of the West-Borneo territory he never came across any signs of a plot.

MATSURA NOICHI:

that he had never heard at KATAPANG of a plot and was of the opinion that such had never existed.

HAYASHI SHUICHI:

that it appeared very strange to him that there was a plot and he himself had never heard anything about it.

Considering that accused has admitted that approximately 1250 persons were beheaded by execution squads under his command;

that he has admitted having personally taken part in the executions by having beheaded 3 people, to wit ELIAS, an Indonesian teacher from Singkawang, the Autonomous Ruler of Ketapang and KJO BA TEK;

that as appears in the statements of the interrogation of KUSE KAZUO and ISHIYAMA YUSABURO dated respectively 17th and 18th April 1946, which were read out in front of and shown to the accused at the trial, these latter each declared for his part that he saw the accused behead persons with his own hand;

that as appears in the statements of the interrogation of ISHIYAMA YUSABURO and KOSIDA GOICHI, dated respectively 17th and 18th April 1946, these latter declared that the accused was in command of and directed the executions.

Considering that as appears in the statements of the interrogation of YAMAMOTO YASUICHI and MIYAJIMA JUNKICHI, dated respectively 17th and 13th April 1946, which were read out in front of and shown to the accused, it is evident and the Court-martial is thereby convinced that the accused as commander of the execution squads during the executions intentionally helped with the beheading and intentionally gave the opportunity to do the same, the aforesaid witnesses having declared:

YAMAMOTO YASUICHI:

that he beheaded a person at the express desire of the accused.

MIYAJIMA JUNKICHI:

that he beheaded two persons by direction of the accused.

Considering that the accused has admitted having ill-treated persons during the interrogation by the TOKETAI and did himself once apply the trial by water which consisted in the victim having to lie on the ground, water then being poured in turns into his nostrils and mouth until he finally gave the information which the TOKETAI wished to hear from him;

that these ill-treatments were confirmed by HIRAYAMA SEICHI, as appears in the statement of his interrogation, dated 23th April 1946, which was read out in front of and shown to the accused at the trial, the witness having declared that he ill-treated persons during their interrogation following the example of the accused.

Considering that the

Considering that the accused has admitted at the trial that the following persons were beheaded by execution squads under his command, to wit:

Kwee Klok Kie
Kwee Liang Tiap
Mrs. Roebini
Mrs. Panangian
Aunt Maidin
Nasroen
Raden Soekarijo
Soedarmati
Noto Soedjono
Mrs. Soedjono
Achmed Saloh
Mohamed Yatim
Nasaroeddin
K.R. Tanboenan
E.L. Kawengian
Mary Tewu
Elsje Lucas
Mrs. Jut
Mrs. Ledebocor and
Mrs. Vijsma

while according to the accused's own statement, he himself beheaded ELIAS, the Autonomous Ruler of Ketapang and Kjo Ba Tek, there being as he himself said no particular reason for these executions done by his own hand.

Considering that the acts committed by the accused as subject of an enemy power, i.e. Japan, constitute a violation of the laws and usages of war, these acts consisting in the ill-treatment and torture of civilians and the execution of civilians, in the greater number of cases without there having been any form of trial.

Considering therefore that it has been legally and convincingly proved by what has been considered above, as well as by the statements of the interrogation of Norimoto Shoji, Kaneko Yasuzo, Watanabe Shoji, Tsuge Yoshiro, Hiratsuka Michio, Mitsui Usao, Adachi Yoshio, Hirayama Seichi (statement dated 15th May 1946), Amat bin Oesman, Raden Sri Sorti Soewartini, Siti Aminah Fadjar Ningroem, Vr. S. Siregar, Firdaus Narahap, Vr. Halimah binti Adas, Vr. Soeratni, Vr. Moer Tamini, Vr. Salma, Vr. Halimah binti Abdulhamid, Vr. Ida Psariboo, Vr. Lim Tjhoen Eng and Ng Ngiao Liang which were read out in front of and shown to the accused at the trial, and by the copy of the "Borneo Sinboen" No. 491, dated 2 Djocli 2604 also shown to the accused, all these considered in connection the one with the other, and the circumstantial evidence resulting therefrom, that the charge brought against the accused and his guilt in the same constitute the crime described further on and which is made punishable by art. 4, Statute Book 1946 No. 45 jo. art. 1, Statute Book 1946, No. 44, for which reason he deserves that sentence of punishment be passed.

Considering that the acts committed by the accused are so interconnected that they must be considered to have been committed in one continuous action.

Considering in respect to the punishment to be imposed on the accused: that in deciding this the Court-martial wishes in the first place to take into consideration the accused's assertion that he acted in the interest of his country, which interest he asserted was seriously endangered by 2 plots against the Japanese occupation;

that the Court-martial wishes firstly to consider whether or not such plots did in fact exist;

that - as has already been considered above - the accused has not succeeded in convincing the Court-martial that the plots really did exist;

Ling Oi Jin, Vr. Ng Soei Hoen, Kardjono, Maria Sigarlaki,
Vr. Phoa Ka Tjen, Vr. Kartinah, Vr. Helena Cohen, that the Court-martial is
Arif bin Ismail Latif, Vr. Saenah, Vr. Zahanir.

that the Court-martial is strengthened in its conviction of the non-existence of the plots by the declarations of the witnesses TANIGUCHI NOBURO and MATSURA YOICHI, both employed by the Japanese Intelligence service JOHO HAN, and also of the witness HIRAYAMA SEIICHI, (statement dated 15th May 1946) interpreter, who all declared that they noticed no plot, the first witness adding that he had heard from HAYASHI SHUICHI, head of the JOHO HAN, that the plot was only "an invented affair serving chiefly for the purpose of getting anti-Japanese people out of the way and getting hold of their possessions";

that the accused has stated as proof that the 1st plot existed that as a result of it 40 pistols, some old rifles and 250 fire-arms were said to have been seized, but then added that the 250 fire-arms were seized by the police and that the Japanese knew about these 250 weapons, indeed they were used by the police when on duty;

that the accused's assertion with regard to the use by the police of the 250 weapons is not further substantiated by anything and the Court-martial is not well able to imagine how an armed opposition by persons possessing only 40 pistols and a few sporting-guns can have any chance of success against a well-armed Japanese occupation force;

that it makes it besides very difficult for the Court-martial to attach any belief to the story of the seizure of the weapons in view of the declaration of the witness ADACHI YOSHIO who, as appears in the statement of his interrogation dated 24th April 1946, declared that a photograph was taken of the seized weapons and published in the Borneo Shinbun No.135 of 1st July 1944, in which photo he discovered the picture of a defective machine-gun which he, being in charge of the armoury of the Pontianak garrison, had been given to take care of by Nakatani, sergeant-major in the TOKETAI, about a year before the aforesaid photo was taken;

that as a second proof of the existence of the plots the accused put forward the confessions in connection with them made by accused persons, but the Court-martial is unable to attach the slightest importance to these confessions when it has appeared that they were only obtained after lengthy torture, which indeed the accused himself also concedes, although he adds at this point that these ill-treatments and tortures were not always applied;

that neither can the Court-martial agree with the accused's assertion that goods such as gold, precious stones etc., seized in the houses of the arrested persons should be considered as providing evidence of the existence of the plots;

that, everything considered, the Court-martial, willingly accepting that there were persons with anti-Japanese feelings in West Borneo, most positively rejects accused's assertion that there was sufficient evidence of the existence of the plots;

that the Court-martial, passing to the consideration of accused's position as head of the execution squads, is not able to judge to what extent the accused without endangering his own life could have refused to act in the sense mentioned above;

that equally and in any case the accused need not personally have taken part in the executions for the reason that:

1. it is not customary for the commander of an execution squad himself to take part in executions, seeing that his task consists in supervising the whole;
2. that it has nowhere been proved to the Court-martial that the accused was forced to take part with his own hand in the executions;
3. that the accused cannot state why he took part in the executions;

that, further, the accused, although deputy head of the TOKETAI and so

no insignificant figure

no insignificant figure, knowing that a number of persons had only confessed after torture and also that of the 1000 or more people executed only a very small number, about 50, had been judged by the Japanese Court-martial, had never protested in the slightest to executions being carried out without any form of a trial;

that the Court-martial has been forced with great horror to note that the accused, although knowing that a confession of participation in a plot means the unavoidable death of the person confessing, nevertheless did not refrain from personally taking part in the torture of persons with the object in so doing of forcing them to confess;

that the term horrible can also be applied to the manner of execution for the members of the execution squad had to take it in turns to behead a victim and, seeing that there were several among the members who had never executed anyone in such a way before, it happened only too often that the victim's head was not severed from the trunk at the first stroke and it can therefore be supposed that he was not killed at once;

that the Court-martial wishes to make the following remark with regard to the defence put forward by counsel for the accused:

that the Court-martial was struck by counsel's remark that when he learnt of the accused's actions he felt very disappointed and considered these actions also being an opposition to the laws and usages of war;

that from counsel's remark, he himself being a Japanese subject, the Court-martial draws the conclusion that in spite of the difference in Western and Eastern mentality the accused's behaviour was not a tolerable one either from the point of view prevailing in Japan;

that counsel further draws attention to the accused's psychological state, as also the fact that accused's actions took place in time of war;

that the Court-martial knows that the psychological state of those taking part in a war can undergo changes, this being generally in the sense that such a person no longer has any respect, or at any rate much respect, for the lives of others;

that such a complete or partial lack of respect for another's life very often arises from a desire to preserve one's own;

that the accused however was not in the heat of battle when the actions were committed by him, indeed at that time there were no signs of warfare of any sort in West Borneo,

that the accused had already been about a year in the western part of Borneo when the wholesale arrests started so that it cannot be said of him that he had been in the heat of battle shortly before then,

that the Court-martial has been unable to detect any sign of mental defect in the accused,

that counsel's plea that accused's actions took place in time of war is meaningless since these actions are contrary to the laws and usages of war - in counsel's own conception also;

that further, counsel raises the point that in his opinion as a result of the dialect used by accused and his quick way of speaking his statements during the preliminary investigation were sometimes repeated incorrectly by the interpreters, but the Court-martial, where during the trial the accused's statements read out once again in front of and shown to him have not been contradicted or retracted by him, does not wish to go further into this assertion;

that counsel is of the opinion that through the destruction of all documents bearing on the plots the existence of these has not been correctly reflected, seeing that too much has been based in that connection on the accused's memory,

that the Court-martial cannot share counsel's view seeing that at no time has accused shown any signs of suffering from loss of memory. On the contrary, his list of names of the executed persons shows him to be possessed of a very good memory;

that counsel has advanced the argument that by the death of NAKATANI and absence of UESEGI the person of the accused has attracted more attention than would have been the case had the other two persons been present;

that the Court-martial concludes from counsel's assertion that, had NAKATANI and UESEGI been present, opinion as to the accused would possibly have been different;

that the Court-martial most positively rejects this point of view and only regrets that UESEGI is not present and so cannot be called to account for his crimes;

that, besides, OKAJIMA RIKI, commandant of the TOKETAI at the time of the discovery of the so-called "second" plot, definitely is present and in spite of this the accused's actions have attracted full attention;

that counsel alleges that accused's intellectual development is of such a nature that he cannot be considered to be abreast of judicial practices and regulations,

that the Court-martial is able to share counsel's opinion in so far as it concerns the accused's low intellectual development, but cannot recognise that this low degree of intelligence can form an extenuating circumstance with regard to the accused who forced a confession from a person by torture, knowing that this confession would result in the death of that person, and finally took an active part in the execution of the said person;

that the Court-martial cannot conceive that, as advanced by counsel, accused by his action only upheld his duty to his fatherland, seeing that without offering any objections on his part - although his position as deputy commandant of the TOKETAI would certainly have allowed of this - accused ill-treated and then executed or had people executed;

that the Court-martial considers the accused's mental and intellectual state to be fully sufficient for him to be made entirely responsible for his acts;

that the accused cannot put forward the plea that he obeyed official orders,

that even were this plea well founded, very many of his detestable acts can nevertheless be exclusively laid to his own door.

Considering finally that only one penalty, that is the death penalty can be imposed on the accused who has not scrupled to send hundreds of innocent persons after prolonged tortures to a frightful death;

In view of the provisions of the law contained in sections 23, 34 and 35 of the Satute Book 1946 No.47 as well as art: 64 of the Penal Code:

MAINTAINING THE LAW;

Declares the accused YAMAMOTO SOICHI guilty of the war crimes:

1. Murder,
2. Complicity in wholesale murder,
3. Torture of civilians,

all of which crimes were committed several times but in one continuous action.

Condemns him for such

Condemns him for such to the "DEATH PENALTY".

This on Monday, 21st October 1946 by:

Dr. C. van Essel,	President
" A. H. Böhm,	} Members
" F. M. Sinnecker	
" J. A. Lamers,	
	Secretary.

all officers of the Infantry Reserve.

The Members,	The President,
s/ A. H. Böhm	s/ C. van Essel.
F. M. Sinnecker	

In the presence of me,
the Secretary:
s/ J. A. Lamers.

OF
FIAT EXECUTION:

Fiat execution of the above sentence granted by me Dr. J. van der Swaal, this day, 29th October 1946.

The Commanding Officer,
s/ J. van der Swaal.

Pronounced on Thursday, 31st October 1946 at the public trial by the Temporary Court-martial by:
Dr. C. Essel, president, in the presence of Dr. A. H. Böhm and Dr. F. M. Sinnecker, members, Dr. Lie Oen An, deputy Judge-Advocate and Dr. J. A. Lamers, secretary, as also in the presence of the accused and his defending counsel, Commander MISUI USAO.

The Members:
s/ A. H. Böhm
F. M. Sinnecker

The President:
s/ C. van Essel.

In the presence of me,
the Secretary:
s/ J. A. Lamers.